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Larry M. Weil, Planning Director  
Steven Zimmer, Senior Planner  
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission  
August 9, 2010 at 7:00 P.M.  
West Fargo City Hall

Members Present: Tom McDougall  
Frank Lenzmeier  
Terry Potter  
Kim Keller  
Jerry Beck

Members Absent: Edward Sheeley, Jason Gustofson

Others Present: Lisa Sankey, Steven Zimmer, Lowell Regstad, Dustin Scott, Kevin Bucholz, Bill Burke

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the July 12, 2010 meeting minutes as printed and mailed. Commissioner Keller seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A10-24 Eagle Run 18<sup>th</sup> Addition, a replat of Lot 1 and part of Lot 2, Block 3 of Eagle Run 8<sup>th</sup> Addition, City of West Fargo, North Dakota; Rezoning from PUD: Planned Unit Development to R-3: Multiple Dwellings of part of Lot 2, Block 3 of Eagle Run 8<sup>th</sup> Addition and Land Use Plan Amendment from Office Park to High Density Residential.

Steven reviewed the following information from the staff report:

The property is located west of Cass County Highway #17 (Sheyenne Street) and south of 34<sup>th</sup> Avenue West. In July of 2003 the applicant applied and was approved for a subdivision variance and simple lot split to allow for the development of additional multiple family units provided that the Variance was temporary in nature and that the properties would be replatted.

The developer's intent was to replat the property when the adjacent lot is developed to save costs. The property which was split in 2003 and combined with the 5<sup>th</sup> Street West property to develop high density multiple family, is still zoned PUD as it was originally intended to be developed into offices. Therefore, the small parcel needs to be rezoned and a Land Use Plan Amendment from Office Park to High Density Residential approved as well. The multiple family property is now being sold, so it is appropriate to address the replatting, rezoning and land use plan issues. The replatting of the property along Sheyenne Street will need to be completed independently. The established use of multiple family is consistent with City Plans and Ordinances.

The applicant proposes to replat the property to create a clearer legal description due to a split property from Lot 2 which added footage to Lot 1 to allow the number of apartment units constructed. In 2003 the owner of the property proposed constructing five 30-Plex apartment buildings (150 units) on the property; however, when obtaining the building permit, there was only enough property to support 142 units. The owner proceeded with four 30-Plex structures and purchased four feet of property from the adjoining lot to construct a 24-Plex for a total of 144 units on the property.

The four feet of property was next to and west of a tree shelter, so the property split did not affect the usable area of property intended for office use. The Simple Lot Split procedure was developed to simplify the transfer of property for smaller lots. The procedure is utilized primarily for single family lots where the split is not part of a continuing scheme of lot splitting for a particular area. Because both lots were so large, the proposed simple lot split did not meet the Subdivision guidelines. The lots were larger than half an acre in size as per the criteria for approving a lot split, though the other exemption criteria were met.

The applicant proposed the Simple Lot Split as a temporary measure, with the intent to include the parcel in a subdivision replat when a lot design is determined for Lot 2. The remainder of Lot 2 is still vacant and intended for Office Park Development. The applicant is now proceeding with the subdivision replat, which was a requirement in 2003 and has submitted an Area Plan and Plat which shows the proposed subdivision.

The Land Use Plan depicts the area developing with Multiple Family and Office Park. The Preliminary Plat shows the two parcels which are developed with multiple family units platted as one lot. The zoning requested for the 4-foot lot split parcel is R-3: Multiple Dwellings, so as to bring the parcel in conformance to City ordinances.

The original subdivision plat shows access control along 34<sup>th</sup> Avenue West with a point of access west of the property on Sheyenne Street. The street design for 34<sup>th</sup> Avenue West included a center median to better control traffic near the Sheyenne Street intersection. Access to the property being replatted was installed off 5<sup>th</sup> Street West and 36<sup>th</sup> Avenue West. It would be appropriate to eliminate the designated access location which was previously shown with the understanding that a right-in right-out access will be granted to the lot fronting on Sheyenne Street. The access would be granted when the property is replatted in the future and would be located at the west edge of the property.

Notices were sent to City Departments, Utility Companies and to property owners within 150'. No issues have been identified.

The intent is to close the sale on the property prior to the Final Plat being recorded, so a revised Title Opinion will need to be submitted showing the new owner.

It is recommended to conditionally approve the application on the basis that the property will be brought into compliance with City plans and ordinances. The conditions of approval are as follows:

1. Departmental comments are taken into consideration.
2. An updated Attorney Title Opinion is received following the transfer of property.
3. A revised drainage plan is received and approved by the City Engineer if necessary.
4. A Final Plat with any necessary easements is received.

Applicant Lowell Regstad indicated he was available to answer any questions.

There were no comments from the public. The hearing was closed.

Chair Lenzmeier asked about the Cons regarding the parcel fronting on Sheyenne Street will need to be platted independently.

City Engineer Kevin Bucholz stated that Lot 2 is in the process of going back to the County for back taxes. Trying to get ownership is a gray area and could take months to find out who should sign the plat, which puts Mr. Regstad at a disadvantage.

Discussion was held regarding whether Lot 2 could be developed as is and regarding future access. Steven indicated that because it's a PUD, it would need to come back before the Planning and Zoning Commission for review of Detailed Development Plans prior to issuance of a building permit.

Commissioner McDougall made a motion to approve the request, subject to the 4 conditions listed in the staff report. Commissioner Beck seconded the motion. No opposition. Motion carried.

The next item on the agenda was Detailed Development Plans A10-22 Hayden Heights 2<sup>nd</sup> Addition, a Replat and Rezoning from R-1A: Single Family Dwellings to PUD: Planned Unit Development Lots 1-5, Block 1 and Lots 11 & 12, Block 2 of Hayden Heights Addition, City of West Fargo, North Dakota.

Steven stated that at the last meeting, a public hearing was held on the rezoning and concept development plans were approved. The developer has submitted detailed development plans showing the basic footprints and minimum setbacks for the proposed twinhome development.

Steven indicated concern with lots along the Sheyenne Diversion and the proposed 20' rear yard setback. In the past developments have been approved with a 20' front yard setback, but not a 20' rear yard. He indicated should decks be constructed, it could become problematic as decks are allowed to be constructed 10 into the required rear yard.

Discussion was held regarding the proposed setbacks and building layout. Commissioners also stated concern with receiving

the information at the last minute and rushing to approve it, possibly having problems in the future. Kevin indicated that basically they're setting parameters – minimum setbacks.

Applicant Bill Burke stated that his intent was to develop and sell smaller lots. He indicated that if need be they could revise the building layout with a 25' minimum rear yard setback.

Commissioner Keller asked about the number of lots prior to the replat. Mr. Burke stated that there were 7 single family lots

Chair Lenzmeier asked if it would be an inconvenience to delay this until the next meeting. Mr. Burke stated that Fall is coming and they may have some people who'd like to build.

Commissioner McDougall asked how this compared to the Westport Beach development. Steven stated that the front yard setback is the same – 20'; however, this private drive is 2' wider than the one in Westport Beach. There's still no parking along the private drive and the rear setback meets minimum standards.

Steven stated that if the commission isn't comfortable with a 20' rear yard setback, then they can increase it to 25 or 30'. Twenty-five foot rear yard setbacks have been approved in the past in Planned Unit Developments. He stated that with every PUD, there are detailed development plans.

Discussion was held regarding flood elevations. Kevin stated that this area has been LOMR'd out.

Commissioner Keller made a motion to approve the detailed development plans provided all rear yards are not any less than 25'. Commissioner McDougall seconded the motion. No opposition. Motion carried.

The next item on the agenda was Continued A10-4 Stockyard's Corner 5<sup>th</sup> Addition, a replat of Lots 6 & 7, Block 1 of Stockyard's Corner 3<sup>rd</sup> Addition, City of West Fargo, North Dakota.

Commissioner McDougall made a motion to continue this until the next meeting. Commissioner Potter seconded the motion. No opposition. Motion carried.

Under non-agenda, Chair Lenzmeier indicated that the North Dakota Planning Association (NDPA) meeting will be held at the Can-Ad Inn in Grand Forks on October 6-8. Steven stated that information would be sent out shortly.

Commissioner McDougall made a motion to adjourn. Commissioner Keller seconded the motion. Meeting adjourned.